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No. 665

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IN THE

Supreme Court of the United States

October Term, 1966.

WILLIAM ROBERT KLEIN,

Petitioner,

against

SOLOMON A. KLEIN,

Respondent.

PETITIONER'S REPLY

WILLIAM R. KLEIN,
Pro se,
132 West 43rd Street,
New York, N. Y.

THE REPORTER COMPANY, INC., New York, N. Y. 10007—RE 2-6978—1966
(6705)

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The insincerity and unfairness of this Prosecution, and its result, of disbarment, standing unprecedented for 230 years of New York legal history, as a "short-shrift" "summary" one, are demonstrated by five listed aspects below, drawn from its "Brief in Opposition" (served upon petitioner only on November 14, 1966 after two taken extensions, without the courtesy of notice, prior or post, since the service of Petition on September 28, and its immediate delivery to this Court, well within the time limit (Rule 34[4] requires notice).

Most remarkably, respondent again leaves intact and unchallenged Petitioner's "Statement of Facts"; for certainly a public official's self-respect would seem to require, at least, a *pro forma* denial of such damaging allegements.

(a) Its brief's bare, unsupported, and repetitious reliance, at opening and closing, upon Mr. Justice Harlan's preliminary, but sweeping, disposition, notwithstanding the New York Court of Appeals seven-Judge unanimous sustainment of the existence of Federal and State Constitutional ques-

tions here, must be viewed as effort to discourage, if not preclude, a full consideration by this Bench of the merits—a continuation of its suppressive policy in denial of a real first day in Court.

(b) Respondent's cautious reference to the date of "filing" by this Court's Clerk, of the petition, at page 2, after due and timely service upon him and immediate transmission to this Court, on September 28, 1966, well within the 90 days, only to have a wily prosecution manage the withholding of the original records on review, at his Court, beyond the jurisdictional period, to enable respondent here now to make such posture, is characteristic of the foul play, to which the entire record of this case yields.

(c) Respondent's continuing assertion that "petitioner was accorded the full measure of due process", by *renewing the misstatement,* that the time within which to make preliminary motions, "had expired", despite the service upon him of a notice of motion for dismissal of the proceedings on 11 cited grounds in bar and demurrer, on *February 13, 1966,* well within the time allowed by his Court, and despite the renewal and physical inclusion of the original of said notice, as part of the cross-motion filed in opposition to his "motion for an order imposing discipline" must be deemed a resort to the persisting "big lie" technique of the Hitler era; but there is the implied saving admission by respondent, that motions of preliminary nature, lie, addressed to the sufficiency of the complaint, to take the place of an answer to the merits, with denials, until disposition by the Court of such motions. Thus, the respondent himself brings to naught the entire force of his repetitious references throughout page 3 to the absence of "denials" of the charges.

(d) The repetitious re-introduction of the Court of Appeals' opinion *in extenso,* with no allusion whatever to the specific Points I and II of the Petition, seems another resort to authority, to impress, without any sense of need of support, by authoritative cases of this Court.

(e) The respondent's silence, in presence of the italicized statement of the petition (top p. 17) of "the *now undisputed* absence of any report" essential to the existence of *any* charges, and to their initial validation, under the rules of the Judicial Inquiry on Professional Conduct, from which these "charges" emanate, must put to naught *all* prosecution claims, including, now, the one of the existence of "substantial Federal question." The disregard by the State Courts of this missing essential link to any charges is a denial of the equal protection of the laws, nowhere touched upon below, or here, by this Prosecution.

At page 5, respondent opens a new door, alluding to petitioner's appearance and withdrawal from the Referee's hearings, to prejudice but not inform the reader. Reserving all objections, and citing the force most respectfully of the cases, herein submitted by petitioner, the Mills v. Alabama, and the New York Broome case, for their authority in properly avoiding futility and circuity of proceedings before a referee who, being a local Supreme Court Justice, is barred by the State Constitution from sitting as referee, nowhere contested by respondent, petitioner addressed the Referee, concerning the judgment of disbarment, as

> "final, permanent, and nothing that Your Honor can do by way of hearing, so far as I understand —and I would like to be corrected because I am only humble before the law; nothing that Your

Honor can do, no matter what his finding may be here, can correct that situation or change it so far as the jurisdictional authority either of yourself, as referee, here, or of the Court, that made the order, is concerned.

"The Court: I agree with you totally that nothing that I can do can reinstate you or vacate the order of disbarment. In other words, I cannot reverse the Appellate Division.

"Mr. Klein: Or you can't recommend with any force.

"The Court: I am not designated for the purpose of recommending * * *

"Now as far as the order of disbarment being final and irrevocable in the sense of the word that you have suggested, you are correct * * *"

In this conceded light, can there be any doubt of the existence of a substantial federal question? The "hearings" granted are to one, already adjudged professionally dead, and being brought in that state, before a *servant* of the executioner-court. In this light, Mr. Justice Black's treatment of "short-shrift" disbarment and his denunciation of the secret, star-chamber emanations of the Kings County Judicial Inquiry on Professional Conduct, discussed at p. 15 of the petition, are in point; and more so, because of the now established absence of any report from the Judge, presiding over that secret Body, prerequisite to the valid existence of any charges.

Respectfully submitted,

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